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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3424 OF 2006

Krishnasingh Ishwarsingh
Dudhani .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.P.U.Baddare for applicant
Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 10th October 2006

P.C.

. Applicant is arrested in connection with C.R.No.371 of 2005 registered with Swargate

Police Station, Pune. Offences alleged are punishable under section 307, 451, 342, 323, 504, 506(2) and the provisions of Arms Act and Bombay Police Act mentioned therein.

2. It is alleged that the applicant armed with sword along with Shakti Singh Dudhani, Krishna Dudhani and Praful Dudhani came on two wheeler with identical weapons as that of applicant and smashed window panes of Autorickshaws and tried to attack complainant with the said weapons. Complainant and others who were present at site threw stones in self-defence. It is alleged that thereafter the applicant and others ran away but returned lateron. It is alleged that Krishna and Shakti Dudhani assaulted complainant with sword. He has been injured on his right hand finger and left knee joint. This is the role attributed to the applicant and Shakti Singh. Thereafter, others have been named who were armed with Kukri and sword. Injuries to others including Bablu

Ingavle are identical.

3. Applicant has averred in the present application that this Court had enlarged co-accused Shaktisingh on bail. His role is identical to that of applicant. While enlarging him on bail, this Court has observed that the medical certificate was not there in the charge sheet. That apart, this Court observed that prima facie, some other persons are also said to have been assaulted. Injury certificate produced on record do not disclose any grievous injury. This Court recorded a prima facie, opinion that application of Section 307 is doubtful.

4. Learned A.P.P. on the last occasion took time and filed an affidavit of I.O., a copy of which has been handed in to the learned Advocate for the applicant.

5. Ms.Baddhare learned Advocate for applicant, upon instructions makes a statement

that insofar as injury certificate produced is concerned, the same is of one Vinod Ingawale and this Court in the order passed on 26th July 2006 has observed that perusal of said certificate does not disclose any grievous injury.

6. As far as past criminal record is concerned, she has invited my attention to the fact that cases of identical nature are pending against the co-accused as well. As far as present applicant is concerned, out of 14 cases registered at the same police station, he has been acquitted in about four cases and continues to be enlarged on bail in others. In such circumstances and when there is no material produced which would show that any terms and conditions of the order enlarging him on bail in the other cases have been violated, it would not be proper to deny the applicant bail.

7. Having perused the materials including affidavit in reply and the order of this Court, I

am of the opinion that on the ground of parity, applicant deserves to be enlarged on bail. The apprehension expressed by the prosecution can be taken care of by directing that the applicant for a period of three months from today, shall reside outside jurisdiction of Swargate Police Station. Hence, following order:-

i) The applicant arrested in connection with C.R.No.371 of 2006 registered with Swargate Police Station shall be enlarged in the sum of Rs.15,000/- with one or two local sureties in the like amount. Applicant shall for a period of three months not reside within the limits of Swargate police station. During this period he shall report to the nearest police station to his residence.

ii) The bail is granted subject to condition that the applicant shall after

the period of three months, report report to concerned investigating officer of Swargate Police Station once a week on every Friday between 5.00 p.m. and 7.00 p.m. till conclusion of the trial.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner

tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)